IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 2630 OF 2006

Shaunak H. Choksi .... Petitioner

versus

State of Maharashtra & anr..... Respondent.

Mr. Manish Bohra i/b. A.S.Khan & Associates for the petitioner.
Mr. A.S.Shitole APP for respondent.

CORAM; A.P. DESHPANDE, J.
DATED; 20TH NOVEMBER, 2007

P.C.;

1. The present writ petitioner is original accused no.3, one of the Directors of the original accused no.1 Company. The order of issue of process was challenged by the petitioner by filing a revision before the Additional Sessions Judge and the dismissal of the said revision has given rise to the filing of the preset writ petition. The learned counsel for the petitioner has submitted that the petitioner solely being a Director of the company cannot by itself be made liable for the act of the company as the petitioner was neither incharge of the affairs of the company nor was involved in the conduct of the business of the company at the time of commission of the offence. The revisional court has observed in

para 12 of the impugned order that in para 1 of the complaint, the complainant has categorically averred that the accused nos.2 to 4 are in charge and responsible to the accused no.1 (company) for the conduct of its business. Reliance is also placed on the averments made in para 7 of the complaint which reads thus:

> "The accused Nos. 2, 3 and 4 are in charge of and responsible to the accused no.1 for the conduct of its business and have signed various documents and were present at the time of negotiations, dealing and transactions."

2. Having regard to the categorical averments made in the complaint, the revisional court has prima facie found that the present petitioner was director of the company and was in charge and responsible for the conduct of the business of the company at the time of the incident, and actively participated in the transactions.

3. The averments made in the complaint goes to satisfy the requirement of section 141 of N.I.Act and at any rate at this stage the order of issue of process and the revisional order cannot be faulted. There being no merit in the petition, the same is

dismissed.

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